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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,134	12/31/2003	Qiu Jian Ping	QIU JIAN PING	9773

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EXAMINER

PAYER, HWEI SIU CHOU

ART UNIT	PAPER NUMBER
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3724

DATE MAILED: 05/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/750,134

Applicant(s)

PING, QIU JIAN

Examiner

Hwei-Siu C. Payer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_.

## Detailed Action

### Objection to the Specification

The disclosure is objected to because of the following informalities:

- (1) On page 6, lines 8 and 9, "blade holder 30" should read --blade holder 3--.
- (2) On page 6, line 11, "for" should read --from--.
- (3) On page 8, line 10, "5" should read --15--.

Appropriate correction is required.

### Claims Objection

Claims 1-20 are objected to because of the following informalities:

- (1) In claims 1 and 11, line 5, "guard wall" should read --a guard wall--.
- (2) In claim 1, line 6, before "from", --for movement-- should be added.
- (3) In claims 1 and 11, line 7, "a blade" (second occurrence) should read --the blade--.
- (4) In claims 2 and 12, line 3, "a guard wall" and "a clip" should read --said guard wall-- and --said clip--, respectively.
- (5) In claims 5 and 15, line 3, "the said space" should simply read --said space--.
- (6) In claims 5 and 15, lines 4-5, "its front arm" should read --the front arm--.
- (7) In claims 8 and 18, line 3, "the front end" should read --the front arm--.
- (8) In claims 8 and 18, line 4, "the lock groove" should read --the groove--.

(9) In claims 9 and 19, line 3, "a blade" should read --the blade--.

Appropriate correction is required.

### Claims Rejection – Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-9 and 11-19 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 4-13, 23-32 and 40-50 of copending Application No. 10/437,089.

Although the conflicting claims are not identical, they are not patentably distinct from each other because they recite substantially the same invention and merely differ

in the location of the blade lock <sup>assembly</sup>. Specifically, the blade lock assembly of this instant application is mounted on a front end rather than a rear end of the blade holder.

However, as long as the blade lock assembly is capable of locking the blade, whether it

is mounted on a front or rear end of the blade holder depends more upon personal preference than on any inventive concept.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

3. Claims 10 and 20 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 9 and 19 of copending Application No. 10/437,089 in view of McNamara (U.S. Patent No. 2,265,775).

The utility knife of the '089 application lacks pimples for frictionally holding the blade lock assembly in place.

McNamara teaches using friction pimple (24) for the purpose of frictional holding (see page 2, lines 29-41).

In view of this teaching, it would have been obvious to one skilled in the art to modify claims 9 and 19 of the '089 application by providing the utility knife with pimples to frictionally hold the blade lock assembly as desired.

This is a provisional obviousness-type double patenting rejection.

#### **Point of Contact**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hwei-Siu C. Payer whose telephone number is 571-272-

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4511. The examiner can normally be reached on Monday through Friday, 7:00 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on 571-272-4514. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for official communications and 571-273-4511 for proposed amendments.

H Payer  
May 5, 2005

*H Payer*

~~Hwai-Siu Payer~~  
~~Primary Examiner~~